

WTC Community-Labor Coalition
presentation to the
EPA Expert Technical Review Panel
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Presented by:

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and

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This presentation is based, in part,
on several WTC Community-Labor Coalition meetings
held since the last time the EPA decided to convene the
panel, five months ago.

INTRODUCTION

These community/labor comments refer to
EPA's November 2005 Final World Trade Center Test and Clean Program Plan.

- The plan is EPA's plan, not the panel's plan.
- The plan was crafted by the EPA behind closed doors and was never discussed by the panel.
- The EPA's test and clean program is worse than nothing because it is purposely designed to find as little WTC contamination as possible and to clean up as little as possible.
- The EPA's plan repeats the mistakes of the previous, failed 2002 residential test and clean program, and adds new mistakes on top of the old ones.
- The EPA's plan is technically and scientifically flawed.
- The EPA's plan is the final stage in the Bush Administration's cover-up of 9/11 contamination and will be used to minimize the environmental health impact of 9/11.
- The EPA's plan is a monumental failure in every respect.
- The plan is wholly unacceptable and **should not go forward.**

The EPA's plan is designed to find as little contamination as possible by basing the plan on the principle of *exclusion*.

The plan **excludes** testing in most buildings' HVACs and common areas because it relies on landlords and building managers to volunteer to have those areas tested.

- Further disincentives for participation are included by virtue of the many layers of impediments to actually cleaning up those areas if contamination is found.
- This will eliminate many buildings that may contain remaining contamination from the outset.

The plan **excludes** entire neighborhoods known to have been impacted by the dust cloud, the fires that burned for months, and the barge waste transfer operations.

- The EPA reneged on its agreement to test in an expanded geographic areas in Manhattan and Brooklyn, based on panel recommendations.

International Space Station Imagery



September 11, 2001 --- This still image, taken from video sent from the International Space Station on Tuesday, shows a smoke plume rising from the Manhattan area of New York City. This view was taken by Expedition Three Commander Frank Culbertson as the space station flew over New York at an altitude of approximately 250 miles.

The plan **excludes** workplaces and businesses.

- The EPA reneged on its agreement to include businesses and workplaces in any sampling plan, based on panel recommendations.

**STATEMENT BY NEW YORK CITY LABOR ORGANIZATIONS
REGARDING
THE EXCLUSION OF WORKPLACES
FROM EPA'S SAMPLING AND CLEANUP PROGRAM FOR 9/11
CONTAMINANTS**

We strongly protest the decision of the U.S. Environmental Protection Agency (EPA) to once again exclude places of employment from the governmental sampling and cleanup program for 9/11 contaminants in Lower Manhattan. Thousands of workers, many of whom our unions represent, work in the World Trade Center area. Some of these workplaces are known to have been impacted by 9/11 contaminants. Others may have been impacted. Many Lower Manhattan workers, including workers who did not work on the pile at Ground Zero, have been clinically diagnosed with respiratory illness and other adverse health effects. Their medical conditions persist even four years after 9/11.

Nevertheless, neither EPA nor any other governmental agency has ever conducted post-9/11 environmental sampling in Lower Manhattan workplaces or offered employers and workers environmental cleanups where warranted. In 2002, when EPA initiated a test and clean program for Lower Manhattan residences, workplaces were excluded. Now, in 2005, as EPA announces another test and clean program, workplaces are again excluded.

STATEMENT BY NEW YORK CITY LABOR ORGANIZATIONS (Cont'd)

Labor told EPA in 2002, and we repeat today, there is no scientific or legal justification for the government's refusal to conduct environmental sampling and offer cleanup in places of employment, while it does so in residences. Contamination does not discriminate. If 9/11 contaminants entered downtown residences, there is no reason to believe that 9/11 contaminants did not enter downtown businesses.

The EPA WTC Expert Technical Review Panel, which has met for the past 21 months and which includes a labor liaison, has recommended that workplaces be included in any sampling and cleanup program. Now EPA has arbitrarily rejected the recommendation of the panel and has again excluded downtown workplaces from sampling and cleanup. If this position is allowed to stand, workers and employers in the WTC area will never know what exposures they had post-9/11 and will never have had the benefit of a coordinated cleanup, beyond the patchwork of efforts undertaken by some employers and landlords.

We are gravely disappointed by EPA's refusal to carry out its mission "to protect human health and the environment" and by its failure to address the concerns of working people affected by the WTC collapse. We call on EPA to include places of employment in any 9/11 test and clean program. Our members, our neighbors, and our City deserve nothing less.

ENDORSED BY:

New York State AFL-CIO, Denis Hughes, President

New York City Central Labor Council

Civil Service Employees Association, Local 1000, AFSCME

Communications Workers of America District One, Chris Shelton, Vice President

Communications Workers of America, Local 1180

International Association of Heat & Frost Insulators & Asbestos Workers, Local 12A

International Brotherhood of Teamsters, Local 237, Carl Haynes, President

Laborers International Union of North America, Local 78

National Postal Mailhandlers Union, Local 300

National Writers Union, Local 1981, UAW, Pamela Vossen, 3rd Vice President

ENDORSED BY (Cont'd):

New York City District Council of Carpenters

New York State Nurses Association

New York State Public Employees Federation

Organization of Staff Analysts

Professional Staff Congress, Local 2334, AFT

Retail, Wholesale and Department Store Union, UFCW

Service Employees International Union, Local 1199NY

Service Employees International Union, Local 32 BJ

Transport Workers Union, Local 100, Roger Toussaint, President

Uniformed Firefighters Association, Local 94, Bill Romaka, Health and Safety Officer

90 Church Street Labor Coalition

The plan **excludes** looking at the building as the unit of interest, but rather focuses on isolated, individual residential units that are volunteered.

- This approach will ensure that the extent of 9/11 contamination is never known.
- This will allow for contamination to remain in some areas of a building and the possibility of re-contamination of units that may be cleaned.
- The 2003 EPA's Office of the Inspector General's report specifically recommended that, "EPA should treat buildings as a 'system' " (Report No. 2003-P-00012, pg. 53, 6-3).

The plan **excludes** the possibility of collecting accurate data about contamination by using inappropriate sampling methods.

- The wipe method used for the collection of PAHs on carpets and upholstery (ASTM D 6661-01) specifically states that the method was designed for hard surfaces and should not be used on soft surfaces. Use of the method on soft surfaces will result in an unrealistically low estimate of the contaminant being sampled, according to the chair of the ASTM sub-committee that wrote the method.
- The wipe method used for the collection of lead from carpets and upholstery (HUD Appendix 13.1), will not be able to collect all the lead that has become embedded in the materials over time. Studies have shown that wipe methods have a lower collection efficiency on soft surfaces such as, carpets and upholstery than on hard surfaces. Use of the wipe method for lead will result in an inaccurately low estimate of contamination.

The plan **excludes** the possibility of collecting accurate data about contamination by using inappropriate sampling methods (Cont'd).

- The Nilfisk GS-80 HEPA vacuum will be used to collect samples of asbestos, MMVF, PAHs and lead from so-called “inaccessible” areas. According to the November 2005 EPA “Quality Assurance Project Plan (QAPP), attachment #4”, only particles with aerodynamic diameters of approximately 5 microns and larger will be collected and sent to the laboratory for analysis. Given that a significant portion of WTC dust in the indoor environment is smaller than 5 microns, this is an inappropriate method to use because the smaller particles will not be collected. If the Nilfisk vacuum really is collecting smaller particles, which would be expected for a HEPA vacuum, there is a mistake in the QAPP - - this would not bode well for the assurance of quality.

The plan **excludes** the possibility of collecting accurate data about contamination by using inappropriate sampling methods (Cont'd).

- A single composite sample will be collected for so-called “inaccessible” areas. Combining samples from several areas will result in a meaningless average measure of contamination and will make it impossible to determine where high or low levels of contamination exist or which location is actually contaminated, e.g., in a closet or behind a refrigerator.
- Similarly, using composite sampling for HVAC inlets and filters will decrease the likelihood of finding contamination if it exists and make it impossible to pinpoint the location of the contamination, if it is discovered.

The plan **excludes** testing and/or cleanup in areas most likely to be reservoirs of contamination.

- The plan excludes testing in areas of a building most likely to contain potential contamination and least likely to have been cleaned since 9/11, e.g. basements and mechanical equipment rooms. These areas are frequented by workers on a daily basis.
- Contamination found in so-called “inaccessible” areas, e.g., in a closet, will be allowed to remain and will not trigger a cleanup.
- Contamination found in so-called “infrequently accessed” areas, e.g., a window trough, beneath a bed, etc., must exceed unreasonably high benchmarks to trigger a cleaning.

The plan **excludes** testing and/or cleanup in areas most likely to be reservoirs of contamination.

- The plan is drastically skewed towards using results from cleaner areas to trigger cleanups.
- Half of the samples taken in an apartment that will be used to determine whether a cleanup is offered for that unit will be taken from “accessible” locations likely to have been cleaned repeatedly in the past four and a half years, e.g., on tables or counter tops.
- Whether or not an HVAC unit is cleaned will also be based, in part, on the results of the samples taken from clean, accessible locations in individual apartments.

The plan **excludes** the likelihood of having a contaminated HVAC unit cleaned by including layers upon layers of impediments which might result in a cleanup:

- Sampling results from HVACs will not be used to trigger a cleaning of the HVAC, i.e., if contamination at any level is found in an HVAC, this data will not be used to trigger an HVAC cleaning.
- According to the plan, “If the 95% Upper Confidence Limit (UCL) for the estimated building mean in common areas exceeds the benchmark value for a COPC, then this *may* be considered to provide *support* for the decision to offer to clean the building HVAC system.” This is meaningless double-talk that will certainly not lead to an HVAC cleanup.

The plan **excludes** the likelihood of having a contaminated HVAC unit cleaned by including layers upon layers of impediments which might result in a cleanup (Cont'd).

- An HVAC cleanup will be offered if *air* sample benchmarks for asbestos and MMVF are exceeded; highly unlikely since any remaining dust is likely to have settled in the past four and a half years. The panel has previously recommended against the use of air sampling as inappropriate at this point in time.
- An HVAC cleanup will also be offered if the 95% UCL for the building mean is exceeded for benchmarks for the accessible (likely to have been cleaned repeatedly) areas or for the infrequently accessed areas (with considerably higher benchmarks).

The plan **excludes** whole building cleanup entirely, even if warranted, even though this was outlined in the previous plan.

The EPA's plan **excludes** discussion of the steps that EPA will take to ensure adequate sensitivity of test results.

The EPA's plan **excludes** an independent monitor on behalf of the affected community.

Therefore...

For failing to produce a plan that will accurately assess remaining 9/11 contamination;

For failing to include workplaces and businesses;

For failing to include geographic areas known to have been impacted by 9/11 contamination;

For failing to address problems of re-contamination by excluding homes previously sampled and cleaned;

For failing to focus on the whole building as the unit of interest, thus allowing for re-contamination of cleaned units by units or other areas not tested or cleaned;

For failing to use appropriate sampling methodologies;

For failing to include sample results from HVACs and “inaccessible” areas, such as in closets, in the decision criteria for cleanup;

For failing to clean up contamination in all areas where contamination is found;

For failing to provide for whole building cleanups where warranted;

For failing to include previous agreements and panel recommendations in the final plan;

For failing to allow the panel to complete its charge of addressing unmet public health needs;

For failing to produce a plan that protects the public’s health;

We reject this plan.

Furthermore, the EPA has produced such an irresponsible, scientifically indefensible plan – and so violated its mission and the public's trust – we join Senator Clinton and Congressman Nadler's call for a GAO investigation into EPA's actions.